HON'BLE SRI G.S. SINGHVI,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD.

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W.A. NO. 45 OF 2006.

BETWEEN:

D.M. Dhanalakshmi,

W/o A.A.Ponnuswamy,

R/o D.No.5/68, S.V. Koil Street,

Nagari, Chittoor District.

…..

APPELLANT.

AND

1. The State of A.P., School Education Dept.,

Rep. By its Convener and Regional Joint

Director of School Education,

DIET-CET 2005, Saifabad, Hyderabad,

And another.

….. RESPONDENTS.

:: JUDGMENT ::

Counsel for the appellant : Mr. V. Jagapathi.

Counsel for the respondents : G.P. for School Education.

24th JANUARY, 2006.

Per G.S. Singhvi, CJ

Feeling dissatisfied with the order of the learned Single Judge whereby he directed respondent No.1 to consider her claim for allotment of a seat in D.Ed. course in District Institute of Education and Training, Karvetinagar, Chittoor District (hereinafter described as 'the Institute') by treating her as non-local candidate, the appellant has filed this appeal.

The grievance of the appellant is that even though she had claimed admission in D.Ed., by being treated as a local candidate, the learned single Judge indirectly negated her claim and issued the impugned direction.

We have heard learned counsel for the parties and perused the record.

The appellant, who belongs to backward class, was born on 6.3.1983 at Pudupet, Chittoor District. She studied from Class I to Class V at M.P. Elementary School, Pudupet. Thereafter, she studied at Government High School, Nediyam, Tiruvaliur District (Tamil Nadu) from Class VI to Class X.

She then completed her Intermediate course at P.C.N. Government Junior College, Nagari, Chittoor District. Thereafter, she applied for admission to D.Ed. course. She appeared in the written examination held on 5-6-2005. She was declared passed and was assigned 21st rank among the candidates who had taken examination in Tamil medium. She is said to have appeared in the counselling held for the purpose of admission to D.Ed. course, but was not granted admission on the premise that she does not satisfy the eligibility criteria. She then filed Writ Petition No.17851 of 2005 and prayed that a direction be issued to the respondents to consider her case for allotment of a seat by treating as local candidate. She pleaded that being a permanent resident of Andhra Pradesh, she was entitled to be admitted by being treated as a local candidate. In support of her assertion regarding permanent residence, the appellant produced residential certificate dated 7-7-2005 issued by Mandal Revenue Officer, Nagari Mandal.

The learned single Judge barely referred to the averments contained in the pleadings and disposed of the writ petition by directing respondent No.1 to consider the appellant's claim for allotment of seat in D.Ed., course by treating her as a non-local candidate. Paragraphs 3, 4 and 5 of the order of the learned Single Judge which contain brief contention of the appellant's claim read as under:

> "3. At the time of hearing, it is contended that though the petitioner is a permanent resident of Andhra Pradesh, her case was not considered either as a local or as a non-local candidate. In any case, for the reason that the petitioner has studied 6th to 10th Class outside the State of Andhra Pradesh, she should not be deprived of allotting a seat. If the petitioner is not entitled to be considered as local candidate, she being a native of Andhra Pradesh entitled to be considered at least as a non-local candidate for allotment of the seats in respect of the unreserved seats. Therefore, the learned counsel sought for appropriate orders.
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> 4. The learned Government Pleader, however, sought to contend that G.O.Ms.No.35, dated 26-02-1990 dealing with the admission into the Teachers Training course, through CET, provides the Rules as to the eligibility of the candidates, especially under Clause-C of Rule 11(v), with reference to 15% of the Unreserved Seats. As per the said Rule, all the candidates are eligible to be declared as non-local candidates, who have resided in the State for a total period of ten years, excluding the period of study

outside the State or either of whose parents have resided in the State for a period of ten years, excluding the period of employment outside the State. But a perusal of the material on record clearly shows that the petitioner as well as her parents are residents of Nagari village, since the time of her birth, though she was outside the State during the period of her study from 6th to 10th Class i.e., for a period of five years. Therefore, she fulfills the requirement of ten years stay in the State of Andhra Pradesh, and hence she is eligible for being considered as a non-local candidate, though not as a local candidate.

5 . Under the above circumstances, the writ petition is disposed of directing the 1st respondent to consider the claim of the petitioner for allotment of a seat in D.Ed. course in the 2nd respondent College in Tamil Medium, treating her as a non-local candidate by providing a seat under 15% unreserved seats, if vacant seats are available as on date."

Learned counsel for the appellant invited our attention to Para 5 (B) (ii) of the instructions issued by State Convenor – DIET CET – 2005-cum-Regional Joint Director of School Education, Hyderabad, (hereinafter referred to as 'the State Convenor') and argued that in terms of provision contained in that paragraph, the appellant who was born in Andhra Pradesh and who has resided in the state is entitled to be admitted by being treated as a local candidate. He also referred to Residence Certificate dated 7.7.2005 issued by Mandal Revenue Officer, Nagari, to show that the appellant had in fact resided in Nagari panchayat and mandal in Chittoor District from 1989 to 2005.

Learned Government Pleader submitted that the appellant is not entitled to be treated as a local candidate because she has not studied for a period of four consecutive academic years before her appearance in the examination. According to him, sub-clause (ii) of Para 5(B) of the instructions issued by the State Convenor does not entitle the appellant to claim admission by being treated as a local candidate. He invited our attention to the illustrations given in the form of examples 1 to 5 in the instructions issued by the Convenor and argued that the appellant was rightly treated as non-local candidate because she had studied in a school in the district of Tamil Nadu from VI to X class.

We have thoughtfully considered the arguments/ submissions of the learned counsel and are convinced that the appellant, who is a permanent resident of

Pudupet, Chittoor District, and had appeared in the examination of XI and XII from P.C.N. Government Junior College situated within the state of Andhra Pradesh, is entitled to be treated as a local candidate. Paragraphs 1(a), (b), 5(B) and 5(C) of the instructions issued by the State Convenor, which have a bearing on the decision of this appeal read as under:

"**1. Eligibility Criteria for Admission:**

a) Candidate should be of Indian Nationality.

b) Candidate should belong to the State of Andhra Pradesh. He / She should satisfy Local / Non-local Status requirements as per Presidential Order, 1974 and amendments thereon pertaining to Regulation of Admissions in Educational Institutions in Andhra Pradesh.

5. B Local Candidate – Definition:

A candidate for admission shall be regarded as a local candidate in relation to local area

i) if he / she has studied in one or more educational institution (s) in such local area for a period not less than four consecutive academic years ending with the academic year in which he / she appeared or as the case may be, first appeared in the relevant qualifying examination, or

ii) Where, during the whole or any part of the four consecutive academic years in which he / she appeared or as the case may be, first appeared for the relevant qualifying examination, if he / she has not studied in any educational institution and if he / she has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination in which he / she appeared or as the case may be, first appeared.

iii) A candidate for admission to the course who is not regarded as local candidate under clause (i) and (ii) above, shall be a local candidate of

a) that local area if he / she has studied for the maximum period out of the said period of seven years in that local area.

b) where the period of his / her study in two or more local areas are equal such local area where he / she has resided last in such equal period; or

iv) if, during the whole or any part of seven consecutive academic years ending with the academic year in which he / she appeared or, as the case may be first appeared for the relevant qualifying examination, he / she has not studied in the educational institutions in any local area, but has resided in the state during the whole of the said period of seven years, be regarded as a local candidate in relation to:

a) such local area where he / she has resided for the maximum period out of the said period of seven years; or

b) where the period of his / her residence in two or more local areas are equal, such local area where he / she has resided last in such equal period.

The candidates are requested to note that their Local Area (University Area) will be decided on the basis of the districts where they have studied. If the candidate has no regular study in a recognized educational institution for the whole or part of specified seven year period, his / her local candidature to that extent will be decided on the basis of his / her residence of the area during the specified seven years period preceding year of first appearance of the qualifying Examination. The candidate has to produce Local Area Certificate for seven years / preceding the year of first appearance at the qualifying exam (in respect of candidates not studied in school / college for any part or full of specified period) from the Revenue authority concerned not below the rank of M.R.O. (Mandal Revenue Officer).

ANDHRA UNIVERSITY (AU)

Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Krishna, Guntur and Prakasam Districts.

SRI VENKATESWARA UNIVERSITY AREA (SVU)

Nellore, Chittoor, Cuddapah, Ananthapur and Kurnool Districts.

OSMANIA UNIVERSITY AREA (OU)

Mahaboobnagar, Hyderabad, Ranga Reddy, Medak, Karimnagar, Nizamabad, Adilabad, Warangal, Khammam and Nalgonda Districts.

For filling up item 8 in the application form and ICR form. The following examples will make clear the Local Area of the candidate.

Example 1: If the candidate has studied classes VI to Intermediate II year in Khammam District as a regular candidate with School/College study he belongs to Osmania University Local Area.

Example 2: If a candidate has studied VI to VIII class in Chittoor District and IX to Intermediate II year in Krishna District as a regular candidate School/College study he belongs to Andhra University Area because he has studied more number of years in the specified seven year period in Krishna District of Andhra University Area.

Example 3: A candidate has no regular school or college study, but he resides in Nellore District and he appeared as a private candidate in S.S.C.

as well as Intermediate. By virtue of residence (because he has no regular study) he belongs to Nellore District. Hence, he comes under Sri Venkateswara University Area.

Example 4: A candidate has studied VI & VII Classes in Guntur District. Subsequently he discontinued his regular study in Educational Institution and settled in Adilabad District and stayed for 5 years. There from he appeared as a private candidate for S.S.C. & Intermediate. Hence he belongs to Osmania University by virtue of his residence (because his period of regular study in Andhra University Area is less than his stay in the Osmania University Area i.e., in Adilabad in specified seven year period).

Example 5: A candidate has studied VI class in Karimnagar District. Subsequently he studied VII to IX in Ananthapur District. Thereafter he studied S.S.C (one year) and Intermediate (two years) in Vishakapatnam District. He belongs to Andhra University Area. (Though the study periods are equal in Sri Venkateswara University Area and Andhra University Area, i.e., three years each, the latter period is Andhra University Area. Hence, he belongs to Andhra University Area.

5. C. Non-local (NL) Candidate – Definition:

As against the status of local candidate mentioned above, status of Non-local candidates is decided as follows i.e.,

The following candidates are considered as Non-Local (NL)

a) Candidates who have resided in the State of Andhra Pradesh for a total period of Ten years or more excluding the period of study outside the State.

Or

b) Candidates either of whose parents has resided in this State for a total period of ten years or more excluding the period of employment outside the State.

Or

c) Candidates either of whose parents is employed in the State of Andhra Pradesh in the State or Central Government, Public Sector, Corporations, Local Bodies, Universities and other similar Quasi Government Institutions within the State at the time of submitting application.

d) Candidates who are spouses of those employed in the State of Andhra Pradesh in the State or Central Government, Public Sector, Corporations, Local Bodies, Universities and other Similar Quasi Government institutions within the State at the time of submitting application.

In respect of a) or b) above candidate concerned, has to produce a certificate

to that effect from Revenue authority concerned not below the rank of M.R.O. (Mandal Revenue Officer).

In respect of c) and d) above candidates concerned has to produce a certificate to that effect from the employer concerned of the quasi Government authority."

A bare reading of clause (ii) of Para 5 (B) makes it clear that a candidate who has studied during the whole or in part of the four consecutive academic years before appearing in the relevant examination is entitled to be treated as a local candidate if he / she has resided in the local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination. Under clause (iv), a candidate who has resided in the State during the whole period of seven years is also entitled to be treated as local candidate. Example No.3 given by the Convenor makes a resident of Andhra Pradesh eligible to be treated as a local candidate even though he / she may not have studied in a regular school or college. The appellant has claimed that she has throughout resided at Pudupet in the State of Andhra Pradesh even when she had studied in the school at Tamil Nadu which is situated at a distance of 10 kms. from the border of Andhra Pradesh. This has not been controverted by the respondents. Therefore, her entitlement to be treated as a local candidate cannot be doubted or questioned.

It appears to us that attention of the learned single Judge was not adequately drawn to the provisions contained in para 5 of the instructions and this is the reason why he concluded that the appellant is entitled to be treated as a non-local candidate for the purpose of admission. Be that as it may, we are convinced that the appellant is entitled to be treated as a local candidate and her candidature deserves to be considered against the seats earmarked for local candidates.

In the premise aforesaid, the appeal is allowed. The order of the learned single Judge is set aside and a writ in the nature of mandamus is issued to the respondents to admit the petitioner in D.Ed., course in the District Institute of Education and Training, Karvetinagar, Chittoor, provided that she is entitled to such admission as per her ranking in the merit list prepared on the

basis of the examination. The needful be done by the concerned authorities within two weeks from the date of submission of certified copy of this order before the Convenor, DIET CET – 2005-cum-Regional Joint Director of School Education, Saifabad, Hyderabad. No costs.

G.S. SINGHVI. CJ

G. BHAVANI PRASAD, J

Dated: 24.01.2006.

VRK.

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Note:

Furnish cc in three days.

(By Order)

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HON'BLE SRI G.S. SINGHVI,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD.

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W.A.NO. 45 OF 2006.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

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Dt: 24-01-2006.